

House Daily Reader

Friday, February 26, 1999

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State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

555C0047

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB1003** - 2/22/99

Introduced by: Representatives McNenny, Broderick, Chicoine, Cutler, Diedrich (Larry),
Monroe, Napoli, Pummel, Smidt, and Waltman and Senators Dennert, Brosz,
Madden, and Olson at the request of the Interim Taxation Committee

1 FOR AN ACT ENTITLED, An Act to provide for the recovery of certain expenses in an action
2 brought to court by any governmental subdivision relative to the assessment of property.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-11 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The circuit court may award disbursements, including reasonable attorneys' fees, in an action
7 brought to circuit court pursuant to chapter 10-11 by any appellant relative to the assessment of
8 property, if the appellant does not prevail in its appeal of the property assessment.

9 Section 2. That chapter 10-11 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 On motion, the Supreme Court may award reasonable attorneys' fees in an action brought
12 to the Supreme Court pursuant to chapter 10-11 against any appellant relative to the assessment
13 of property, if the appellant does not prevail in its appeal of the property assessment. The motion
14 shall be accompanied by counsel's verified itemized statement of costs incurred and legal services
15 rendered.

1 Section 3. That chapter 10-38 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The sixth judicial circuit court may award reasonable attorneys' fees, in an action brought to
4 court pursuant to chapter 10-38 against any appellant relative to the assessment, allocation,
5 equalization, or distribution of property if the appellant does not prevail in its appeal of the
6 property assessment, allocation, equalization, or distribution.

7 Section 4. That chapter 10-38 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 On motion, the Supreme Court may award reasonable attorneys' fees in an action brought
10 to the Supreme Court pursuant to chapter 10-38 against any appellant relative to the assessment,
11 allocation, equalization, or distribution of property if the appellant does not prevail in its appeal
12 of the property assessment, allocation, equalization, or distribution. The motion shall be
13 accompanied by counsel's verified itemized statement of costs incurred and legal services
14 rendered. No award for attorney's fees may be made for or against the State of South Dakota
15 in the Supreme Court.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Judiciary. H.J. 32

3 1/22/99 Scheduled for Committee hearing on this date.

4 1/22/99 Judiciary Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 122

5 1/26/99 Motion to Amend, Passed, AYES 45, NAYS 23. H.J. 199

6 1/26/99 House of Representatives Do Pass Amended, Passed, AYES 46, NAYS 22. H.J. 199

7 1/27/99 First read in Senate and referred to Judiciary. S.J. 222

8 2/10/99 Scheduled for Committee hearing on this date.

9 2/12/99 Scheduled for Committee hearing on this date.

10 2/17/99 Scheduled for Committee hearing on this date.

11 2/19/99 Scheduled for Committee hearing on this date.

12 2/19/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 582

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

363C0038

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB1121** -
2/22/99

Introduced by: Representatives Brooks, Crisp, Davis, Fischer-Clemens, Fitzgerald, Hagen, Haley, Hanson, Hunt, Koehn, Kooistra, Lockner, Lucas, McCoy, Michels, Monroe, Patterson, Peterson, Roe, Sutton (Daniel), Sutton (Duane), Waltman, and Wilson and Senators Brown (Arnold), Dunn (Rebecca), Everist, Kloucek, Lawler, Madden, Moore, Munson (David), Olson, Shoener, Valandra, and Vitter

1 FOR AN ACT ENTITLED, An Act to provide health insurance coverage for diabetes supplies,
2 equipment, and self-management training and education.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Every policy of health insurance delivered, issued for delivery, or renewed in this state,
7 except for policies that provide coverage for specified disease or other limited benefit coverage,
8 shall provide, in writing, coverage for equipment, supplies, and self-management training and
9 education, including medical nutrition therapy, for treatment of persons diagnosed with diabetes
10 if prescribed by a physician or other licensed health care provider legally authorized to prescribe
11 such treatment. Medical nutrition therapy does not include any food items or nonprescription
12 drugs.

13 Coverage for medically necessary equipment and supplies shall include blood glucose

monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, urine testing strips, insulin, injection aids, lancets, lancet devices, syringes, insulin pumps and all supplies for the pump, insulin infusion devices, prescribed oral agents for controlling blood sugars, glucose agents, glucagon kits, insulin measurement and administration aids for the visually impaired, and other medical devices for treatment of diabetes.

Diabetes self-management training and education shall be covered if: (a) the service is provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who satisfies the current academic eligibility requirements of the National Certification Board for Diabetic Educators and has completed a course in diabetes education and training or has been certified as a diabetes educator; and (b) the training and education is based upon a diabetes program recognized by the American Diabetes Association or a diabetes program with a curriculum approved by the American Diabetes Association or the South Dakota Department of Health.

Coverage of diabetes self-management training is limited to (a) persons who are newly diagnosed with diabetes or have received no prior diabetes education; (b) persons who require a change in current therapy; (c) persons who have a co-morbid condition such as heart disease or renal failure; or (d) persons whose diabetes condition is unstable. Under these circumstances, no more than two comprehensive education programs per lifetime and up to eight follow-up visits per year need be covered. Coverage is limited to the closest available qualified education program that provides the necessary management training to accomplish the prescribed treatment.

The benefits provided in this section are subject to the same dollar limits, deductibles, coinsurance, and other restrictions established for all other benefits covered in the policy.

Section 2. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of section 1 of this Act do not apply to any plan, policy, or contract that provides coverage only for:

- (1) Specified disease;
- (2) Hospital indemnity;
- (3) Fixed indemnity;
- (4) Accident-only;
- (5) Credit;
- (6) Dental;
- (7) Vision;
- (8) Prescription drug;
- (9) Medicare supplement;
- (10) Long-term care;
- (11) Disability income insurance;
- (12) Coverage issued as a supplement to liability insurance;
- (13) Workers' compensation or similar insurance;
- (14) Automobile medical payment insurance;
- (15) Individual health benefit plans of six-months duration or less that are not renewable;
- or
- (16) Individual nonmajor medical insurance.

Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as follows:

Every group health insurance policy delivered, issued for delivery or renewed in this state, except for policies that provide coverage for special disease or other limited benefit coverage, shall provide, in writing, coverage for equipment, supplies, and self-management training and education, including medical nutrition therapy, for treatment of persons diagnosed with diabetes

1 if prescribed by a physician or other licensed health care provider legally authorized to prescribe
2 such treatment. Medical nutrition therapy does not include any food items or nonprescription
3 drugs.

4 Coverage for medically necessary equipment and supplies shall include blood glucose
5 monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, urine
6 testing strips, insulin, injection aids, lancets, lancet devices, syringes, insulin pumps and all
7 supplies for the pump, insulin infusion devices, prescribed oral agents for controlling blood
8 sugars, glucose agents, glucagon kits, insulin measurement and administration aids for the
9 visually impaired, and other medical devices for treatment of diabetes.

10 Diabetes self-management training and education shall be covered if: (a) the service is
11 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who
12 satisfies the current academic eligibility requirements of the National Certification Board for
13 Diabetic Educators and has completed a course in diabetes education and training or has been
14 certified as a diabetes educator; and (b) the training and education is based upon a diabetes
15 program recognized by the American Diabetes Association or a diabetes program with a
16 curriculum approved by the American Diabetes Association or the South Dakota Department
17 of Health.

18 Coverage of diabetes self-management training is limited to (a) persons who are newly
19 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require
20 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease
21 or renal failure; or (d) persons whose diabetes condition is unstable. Under these circumstances,
22 no more than two comprehensive education programs per lifetime and up to eight follow-up
23 visits per year need be covered. Coverage is limited to the closest available qualified education
24 program that provides the necessary management training to accomplish the prescribed
25 treatment.

1 The benefits provided in this section are subject to the same dollar limits, deductibles,
2 coinsurance, and other restrictions established for all other benefits covered in the policy.

3 Section 4. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The provisions of section 3 of this Act do not apply to any plan, policy, or contract that
6 provides coverage only for:

- 7 (1) Specified disease;
- 8 (2) Hospital indemnity;
- 9 (3) Fixed indemnity;
- 10 (4) Accident-only;
- 11 (5) Credit;
- 12 (6) Dental;
- 13 (7) Vision;
- 14 (8) Prescription drug;
- 15 (9) Medicare supplement;
- 16 (10) Long-term care;
- 17 (11) Disability income insurance;
- 18 (12) Coverage issued as a supplement to liability insurance;
- 19 (13) Workers' compensation or similar insurance;
- 20 (14) Automobile medical payment insurance;
- 21 (15) Individual health benefit plans of six-months duration or less that are not renewable;
- 22 or
- 23 (16) Individual nonmajor medical insurance.

24 Section 5. That chapter 58-18B be amended by adding thereto a NEW SECTION to read
25 as follows:

1 Every small employer health benefit plan delivered, issued for delivery, or renewed in this
2 state, except for policies that provide coverage for specified disease or other limited benefit
3 coverage, shall provide, in writing, coverage for equipment, supplies, and self-management
4 training and education, including medical nutrition therapy, for treatment of persons diagnosed
5 with diabetes if prescribed by a physician or other licensed health care provider legally authorized
6 to prescribe such treatment. Medical nutrition therapy does not include any food items or
7 nonprescription drugs.

8 Coverage for medically necessary equipment and supplies shall include blood glucose
9 monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, urine
10 testing strips, insulin, injection aids, lancets, lancet devices, syringes, insulin pumps and all
11 supplies for the pump, insulin infusion devices, prescribed oral agents for controlling blood
12 sugars, glucose agents, glucagon kits, insulin measurement and administration aids for the
13 visually impaired, and other medical devices for treatment of diabetes.

14 Diabetes self-management training and education shall be covered if: (a) the service is
15 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who
16 satisfies the current academic eligibility requirements of the National Certification Board for
17 Diabetic Educators and has completed a course in diabetes education and training or has been
18 certified as a diabetes educator; and (b) the training and education is based upon a diabetes
19 program recognized by the American Diabetes Association or a diabetes program with a
20 curriculum approved by the American Diabetes Association or the South Dakota Department
21 of Health.

22 Coverage of diabetes self-management training is limited to (a) persons who are newly
23 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require
24 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease
25 or renal failure; or (d) persons whose diabetes condition is unstable. Under these circumstances,

1 no more than two comprehensive education programs per lifetime and up to eight follow-up
2 visits per year need be covered. Coverage is limited to the closest available qualified education
3 program that provides the necessary management training to accomplish the prescribed
4 treatment.

5 The benefits provided in this section are subject to the same dollar limits, deductibles,
6 coinsurance, and other restrictions established for all other benefits covered in the plan.

7 Section 6. That chapter 58-18B be amended by adding thereto a NEW SECTION to read
8 as follows:

9 The provisions of section 5 of this Act do not apply to any plan, policy, or contract that
10 provides coverage only for:

- 11 (1) Specified disease;
- 12 (2) Hospital indemnity;
- 13 (3) Fixed indemnity;
- 14 (4) Accident-only;
- 15 (5) Credit;
- 16 (6) Dental;
- 17 (7) Vision;
- 18 (8) Prescription drug;
- 19 (9) Medicare supplement;
- 20 (10) Long-term care;
- 21 (11) Disability income insurance;
- 22 (12) Coverage issued as a supplement to liability insurance;
- 23 (13) Workers' compensation or similar insurance;
- 24 (14) Automobile medical payment insurance;
- 25 (15) Individual health benefit plans of six-months duration or less that are not renewable;

1 or

2 (16) Individual nonmajor medical insurance.

3 Section 7. That chapter 58-38 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Every service or indemnity-type contract issued by a nonprofit medical and surgical service
6 plan corporation delivered, issued for delivery, or renewed in this state, except for policies that
7 provide coverage for specified disease or other limited benefit coverage, shall provide, in writing,
8 coverage for equipment, supplies, and self-management training and education, including medical
9 nutrition therapy, for treatment of persons diagnosed with diabetes if prescribed by a physician
10 or other licensed health care provider legally authorized to prescribe such treatment. Medical
11 nutrition therapy does not include any food items or nonprescription drugs.

12 Coverage for medically necessary equipment and supplies shall include blood glucose
13 monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, urine
14 testing strips, insulin, injection aids, lancets, lancet devices, syringes, insulin pumps and all
15 supplies for the pump, insulin infusion devices, prescribed oral agents for controlling blood
16 sugars, glucose agents, glucagon kits, insulin measurement and administration aids for the
17 visually impaired, and other medical devices for treatment of diabetes.

18 Diabetes self-management training and education shall be covered if: (a) the service is
19 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who
20 satisfies the current academic eligibility requirements of the National Certification Board for
21 Diabetic Educators and has completed a course in diabetes education and training or has been
22 certified as a diabetes educator; and (b) the training and education is based upon a diabetes
23 program recognized by the American Diabetes Association or a diabetes program with a
24 curriculum approved by the American Diabetes Association or the South Dakota Department
25 of Health.

Coverage of diabetes self-management training is limited to (a) persons who are newly diagnosed with diabetes or have received no prior diabetes education; (b) persons who require a change in current therapy; (c) persons who have a co-morbid condition such as heart disease or renal failure; or (d) persons whose diabetes condition is unstable. Under these circumstances, no more than two comprehensive education programs per lifetime and up to eight follow-up visits per year need be covered. Coverage is limited to the closest available qualified education program that provides the necessary management training to accomplish the prescribed treatment.

The benefits provided in this section are subject to the same dollar limits, deductibles, coinsurance, and other restrictions established for all other benefits covered in the contract.

Section 8. That chapter 58-38 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of section 7 of this Act do not apply to any plan, policy, or contract that provides coverage only for:

- (1) Specified disease;
- (2) Hospital indemnity;
- (3) Fixed indemnity;
- (4) Accident-only;
- (5) Credit;
- (6) Dental;
- (7) Vision;
- (8) Prescription drug;
- (9) Medicare supplement;
- (10) Long-term care;
- (11) Disability income insurance;

1 (12) Coverage issued as a supplement to liability insurance;

2 (13) Workers' compensation or similar insurance;

3 (14) Automobile medical payment insurance;

4 (15) Individual health benefit plans of six-months duration or less that are not renewable;

5 or

6 (16) Individual nonmajor medical insurance.

7 Section 9. That chapter 58-40 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Every service or indemnity-type contract issued by a nonprofit hospital service plan
10 corporation delivered, issued for delivery, or renewed in this state, except for policies that
11 provide coverage for specified disease or other limited benefit coverage, shall provide, in writing,
12 coverage for equipment, supplies, and self-management training and education, including medical
13 nutrition therapy, for treatment of persons diagnosed with diabetes if prescribed by a physician
14 or other licensed health care provider legally authorized to prescribe such treatment. Medical
15 nutrition therapy does not include any food items or nonprescription drugs.

16 Coverage for medically necessary equipment and supplies shall include blood glucose
17 monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, urine
18 testing strips, insulin, injection aids, lancets, lancet devices, syringes, insulin pumps and all
19 supplies for the pump, insulin infusion devices, prescribed oral agents for controlling blood
20 sugars, glucose agents, glucagon kits, insulin measurement and administration aids for the
21 visually impaired, and other medical devices for treatment of diabetes.

22 Diabetes self-management training and education shall be covered if: (a) the service is
23 provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who
24 satisfies the current academic eligibility requirements of the National Certification Board for
25 Diabetic Educators and has completed a course in diabetes education and training or has been

1 certified as a diabetes educator; and (b) the training and education is based upon a diabetes
2 program recognized by the American Diabetes Association or a diabetes program with a
3 curriculum approved by the American Diabetes Association or the South Dakota Department
4 of Health.

5 Coverage of diabetes self-management training is limited to (a) persons who are newly
6 diagnosed with diabetes or have received no prior diabetes education; (b) persons who require
7 a change in current therapy; (c) persons who have a co-morbid condition such as heart disease
8 or renal failure; or (d) persons whose diabetes condition is unstable. Under these circumstances,
9 no more than two comprehensive education programs per lifetime and up to eight follow-up
10 visits per year need be covered. Coverage is limited to the closest available qualified education
11 program that provides the necessary management training to accomplish the prescribed
12 treatment.

13 The benefits provided in this section are subject to the same dollar limits, deductibles,
14 coinsurance, and other restrictions established for all other benefits covered in the contract.

15 Section 10. That chapter 58-40 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The provisions of section 9 of this Act do not apply to any plan, policy, or contract that
18 provides coverage only for:

- 19 (1) Specified disease;
- 20 (2) Hospital indemnity;
- 21 (3) Fixed indemnity;
- 22 (4) Accident-only;
- 23 (5) Credit;
- 24 (6) Dental;
- 25 (7) Vision;

- 1 (8) Prescription drug;
- 2 (9) Medicare supplement;
- 3 (10) Long-term care;
- 4 (11) Disability income insurance;
- 5 (12) Coverage issued as a supplement to liability insurance;
- 6 (13) Workers' compensation or similar insurance;
- 7 (14) Automobile medical payment insurance;
- 8 (15) Individual health benefit plans of six-months duration or less that are not renewable;
- 9 or
- 10 (16) Individual nonmajor medical insurance.

11 Section 11. That chapter 58-41 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Every health maintenance contract delivered, issued for delivery, or renewed in this state,
14 except for policies that provide coverage for specified disease or other limited benefit coverage,
15 shall provide, in writing, coverage for equipment, supplies, and self-management training and
16 education, including medical nutrition therapy, for treatment of persons diagnosed with diabetes
17 if prescribed by a physician or other licensed health care provider legally authorized to prescribe
18 such treatment. Medical nutrition therapy does not include any food items or nonprescription
19 drugs.

20 Coverage for medically necessary equipment and supplies shall include blood glucose
21 monitors, blood glucose monitors for the legally blind, test strips for glucose monitors, urine
22 testing strips, insulin, injection aids, lancets, lancet devices, syringes, insulin pumps and all
23 supplies for the pump, insulin infusion devices, prescribed oral agents for controlling blood
24 sugars, glucose agents, glucagon kits, insulin measurement and administration aids for the
25 visually impaired, and other medical devices for treatment of diabetes.

Diabetes self-management training and education shall be covered if: (a) the service is provided by a physician, nurse, dietitian, pharmacist, or other licensed health care provider who satisfies the current academic eligibility requirements of the National Certification Board for Diabetic Educators and has completed a course in diabetes education and training or has been certified as a diabetes educator; and (b) the training and education is based upon a diabetes program recognized by the American Diabetes Association or a diabetes program with a curriculum approved by the American Diabetes Association or the South Dakota Department of Health.

Coverage of diabetes self-management training is limited to (a) persons who are newly diagnosed with diabetes or have received no prior diabetes education; (b) persons who require a change in current therapy; (c) persons who have a co-morbid condition such as heart disease or renal failure; or (d) persons whose diabetes condition is unstable. Under these circumstances, no more than two comprehensive education programs per lifetime and up to eight follow-up visits per year need be covered. Coverage is limited to the closest available qualified education program that provides the necessary management training to accomplish the prescribed treatment.

The benefits provided in this section are subject to the same dollar limits, deductibles, coinsurance, and other restrictions established for all other benefits covered in the contract.

Section 12. That chapter 58-41 be amended by adding thereto a NEW SECTION to read as follows:

The provisions of section 11 of this Act do not apply to any plan, policy, or contract that provides coverage only for:

- (1) Specified disease;
- (2) Hospital indemnity;
- (3) Fixed indemnity;

- 1 (4) Accident-only;
- 2 (5) Credit;
- 3 (6) Dental;
- 4 (7) Vision;
- 5 (8) Prescription drug;
- 6 (9) Medicare supplement;
- 7 (10) Long-term care;
- 8 (11) Disability income insurance;
- 9 (12) Coverage issued as a supplement to liability insurance;
- 10 (13) Workers' compensation or similar insurance;
- 11 (14) Automobile medical payment insurance;
- 12 (15) Individual health benefit plans of six-months duration or less that are not renewable;
- 13 or
- 14 (16) Individual nonmajor medical insurance.

1 **BILL HISTORY**

2 1/22/99 First read in House and referred to Commerce. H.J. 128

3 2/11/99 Scheduled for Committee hearing on this date.

4 2/11/99 Commerce Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 482

5 2/16/99 House of Representatives Deferred to another day. H.J. 552

6 2/17/99 Motion to Amend, Passed. H.J. 580

7 2/17/99 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 5. H.J. 584

8 2/18/99 First read in Senate and referred to Commerce. S.J. 565

9 2/18/99 Senate Referred to Health and Human Services. S.J. 568

10 2/22/99 Scheduled for Committee hearing on this date.

11 2/22/99 Health and Human Services Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 613

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

119C0346

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB89** - 2/18/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Hutmacher, Duxbury, Lange, Moore, and Reedy and Representatives Lucas, Burg, Fischer-Clemens, Hagen, Haley, Koetzle, McIntyre, Nachtigal, Patterson, and Waltman

1 FOR AN ACT ENTITLED, An Act to clarify average daily membership in the state aid to
2 education formula.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Students attending the Black Hills Forest High School in Lawrence County may
5 not be included by any school district in its average daily membership for purposes of state aid
6 to education.

1 **BILL HISTORY**

2 1/21/99 First read in Senate and referred to Appropriations. S.J. 146

3 1/26/99 Scheduled for Committee hearing on this date.

4 2/17/99 Appropriations Hog Housed.

5 2/17/99 Appropriations Hog Housed.

6 2/17/99 Scheduled for Committee hearing on this date.

7 2/17/99 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0. S.J. 516

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

491C0496

SENATE TAXATION COMMITTEE

ENGROSSED NO. **SB111** - 1/28/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Paisley and Everist and Representatives Koskan, Diedrich (Larry), and Wilson

1 FOR AN ACT ENTITLED, An Act to establish certain provisions regarding the taxation of the
2 gross receipts of a professional employer organization.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of chapter 10-45, gross receipts of a professional employer organization
7 includes only those amounts received as administrative fees from a client company, whether on
8 a fee-for-service basis or as a percentage of total receipts from the client company. The gross
9 receipts do not include any other amount paid by the client company to the professional employer
10 organization for the benefit of any employee, including wages, salaries, payroll taxes, payroll
11 deductions, workers compensation costs, insurance premiums, welfare benefits, and retirement
12 benefits.

13 Section 2. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 For the purposes of section 1 of this Act, the term, professional employer organization,

1 means a firm which:

- 2 (1) Creates a co-employer relationship with the employees of a client company by
3 assuming responsibility for payroll, benefits, and other human resources functions;
4 (2) Covers at least seventy-five percent of the client company's full-time or full-time
5 equivalent employees; and
6 (3) Maintains separate books and records of account for each client company.

7 Section 3. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The provisions of this Act do not apply to the providing of temporary help services or to any
10 other arrangement whereby a firm temporarily assigns employees of the firm to support or
11 supplement a client company's regular work force in special situations such as employee
12 absences, temporary skill shortages, seasonal workloads and special assignments, or projects.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Taxation. S.J. 162

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Taxation Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 209

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

715C0461

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB138** - 2/25/99

Introduced by: Senators Hainje, Brown (Arnold), Drake, and Lawler and Representatives
Fiegen, Broderick, Cerny, Cutler, Eccarius, and Windhorst

1 FOR AN ACT ENTITLED, An Act to provide limited liability for the use of automated external
2 defibrillators.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of this Act, AED means an automated external defibrillator.

5 Section 2. Any person who acquires an AED shall ensure that:

6 (1) Expected AED users receive American Heart Association training in cardiopulmonary
7 and AED use, or an equivalent nationally recognized course in cardiopulmonary and
8 AED use;

9 (2) The defibrillator is maintained and tested according to the manufacturer's operational
10 guidelines;

11 (3) There is involvement of a licensed physician in the site's program to ensure
12 compliance with requirements for training, notification, and maintenance; and

13 (4) Any person who renders emergency care or treatment on a person in cardiac arrest
14 by using an AED activates the emergency medical services system as soon as possible
15 and reports any clinical use of the AED to the licensed physician or medical authority.

16 Section 3. Any person who acquires an AED shall notify an agent of the emergency

1 communications or vehicle dispatch center of the existence, location, and type of AED.

2 Section 4. Any person, who in good faith and without compensation, renders emergency care
3 or treatment by the use of an AED is immune from civil liability for any personal injury as a result
4 of such care or treatment, or as a result of an act or failure to act in providing or arranging
5 further medical treatment. The immunity from civil liability for any personal injury under this
6 section includes the licensed physician who is involved with AED site placement, the person who
7 provides the cardiopulmonary and AED site placement, the person who provides the
8 cardiopulmonary and AED training, and the person responsible for the site where the AED is
9 located. This immunity applies only if the requirements of section 2 of this Act are fulfilled.

10 The immunity from civil liability under this Act does not apply if the personal injury results
11 from the gross negligence or willful or wanton misconduct of the person rendering such
12 emergency care.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to Judiciary. S.J. 194

3 1/28/99 Senate Referred to Health and Human Services. S.J. 239

4 1/29/99 Scheduled for Committee hearing on this date.

5 2/3/99 Scheduled for Committee hearing on this date.

6 2/3/99 Health and Human Services Do Pass, Passed, AYES 7, NAYS 0. S.J. 316

7 2/4/99 Senate Do Pass, Passed, AYES 34, NAYS 0. S.J. 340

8 2/5/99 First read in House and referred to Judiciary. H.J. 406

9 2/19/99 Scheduled for Committee hearing on this date.

10 2/19/99 Judiciary Deferred to another day.

11 2/24/99 Judiciary Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 732

12 2/24/99 Judiciary Place on Consent Calendar.

13 2/24/99 Scheduled for Committee hearing on this date.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

464C0469

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB149** - 2/25/99

Introduced by: Senators Halverson, Dennert, Dunn (Jim), Everist, Moore, Shoener, and
Symens and Representatives Cutler, Broderick, Chicoine, and Jaspers

1 FOR AN ACT ENTITLED, An Act to require the establishment of a cost recovery method or
2 mechanism for telecommunication companies to recover the cost of certain mandated
3 services and to revise certain provisions regarding dialing parity.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any decision or order by any agency which requires the provision of telecommunications
8 services, in excess of voice grade local exchange service, shall establish a cost recovery method
9 or mechanism to ensure that the telecommunications company will be able to recover the cost
10 of the investment or expense in a period not to exceed ten years, from the services that result
11 from such mandate. These costs may be recovered either regionally or statewide at the discretion
12 of the agency. This section does not affect any decision or order made by any agency to comply
13 with 47 U.S.C. § 251 as of January 1, 1999.

14 Section 2. That § 49-31-87 be amended to read as follows:

15 49-31-87. Dialing parity, as defined in 47 U.S.C. § 153(15) as of January 1, 1998, for
16 purposes of intraLATA long distance telecommunications services, ~~may not~~ shall be implemented

1 by any local exchange carrier serving more than two hundred thousand retail access lines by
2 order of the commission ~~until all providers of toll services are authorized to provide interLATA~~
3 ~~services which originate in this state~~ on January 1, 2000.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to State Affairs. S.J. 196

3 2/8/99 Scheduled for Committee hearing on this date.

4 2/8/99 State Affairs Do Pass Amended, Passed, AYES 5, NAYS 3. S.J. 362

5 2/8/99 Scheduled for Committee hearing on this date.

6 2/10/99 Motion to Amend, Passed. S.J. 431

7 2/10/99 Senate Do Pass Amended, Passed, AYES 29, NAYS 6. S.J. 432

8 2/11/99 First read in House and referred to State Affairs. H.J. 490

9 2/19/99 Scheduled for Committee hearing on this date.

10 2/22/99 Scheduled for Committee hearing on this date.

11 2/24/99 Scheduled for Committee hearing on this date.

12 2/24/99 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4. H.J. 733

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

903C0629

SENATE ENGROSSED NO. **SB164** - 2/22/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Kloucek and Lange and Representatives Chicoine, Hanson,
Kazmerzak, Lockner, Lucas, and Nachtigal

1 FOR AN ACT ENTITLED, An Act to prohibit certain practices by certain livestock packers and
2 live poultry dealers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Legislature finds that the enforcement of the federal Packers and Stockyards
5 Act is inadequate and that this trend has intensified in recent years. The failure to enforce the
6 federal Packers and Stockyards Act has resulted in the vast majority of beef in the United States
7 being concentrated in the hands of a small number of packing firms and has restricted fair
8 competition for livestock producers. The only recourse for the State of South Dakota is to enact
9 appropriate provisions for the regulation of packers as provided in section 2 of this Act to
10 protect South Dakota citizens who are directly or indirectly associated with the state's
11 agricultural economy.

12 Section 2. No packer, with respect to livestock, meats, meat food products, or livestock
13 products in unmanufactured form, and no live poultry dealer with respect to live poultry, may:

14 (1) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device;

15 (2) Make or give any undue or unreasonable preference or advantage to any particular
16 person or locality in any respect whatsoever, or subject any particular person or

1 locality to any undue or unreasonable prejudice or disadvantage in any respect
2 whatsoever;

3 (3) Sell or otherwise transfer to or for any other packer or any live poultry dealer, or buy
4 or otherwise receive from or for any other packer or any live poultry dealer, any
5 article for the purpose or with the effect of apportioning the supply between any such
6 persons, if the apportionment has the tendency or effect of restraining commerce or
7 of creating a monopoly;

8 (4) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from
9 or for any other person, any article for the purpose or with the effect of manipulating
10 or controlling prices, or of creating a monopoly in the acquisition of, buying, selling,
11 or dealing in, any article, or of restraining commerce;

12 (5) Engage in any course of business or do any act for the purpose or with the effect of
13 manipulating or controlling prices, or of creating a monopoly in the acquisition of,
14 buying, selling, or dealing in, any article, or of restraining commerce;

15 (6) Conspire, combine, agree, or arrange with any other person to apportion territory for
16 carrying on business, or to apportion purchases or sales of any article, or to
17 manipulate or control prices; or

18 (7) Conspire, combine, agree, or arrange with any other person to do, or aid and abet the
19 doing of, any act made unlawful by subdivisions (1) to (5), inclusive, of this section.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Appropriations. S.J. 214

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/17/99 Appropriations Hog Housed.

5 2/17/99 Scheduled for Committee hearing on this date.

6 2/17/99 Appropriations Do Pass Amended, Passed, AYES 7, NAYS 3. S.J. 514

7 2/19/99 Senate Hog Housed.

8 2/19/99 Motion to Amend, Passed. S.J. 599

9 2/19/99 Senate Do Pass Amended, Passed, AYES 32, NAYS 1. S.J. 600

10 2/19/99 Senate Title Amended Passed. S.J. 601

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

802C0296

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB193** - 2/24/99

Introduced by: Senators Hainje and Paisley and Representatives Brown (Richard), Peterson,
and Richter

1 FOR AN ACT ENTITLED, An Act to revise the school term.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 13-26-1 be amended to read as follows:

4 13-26-1. The school fiscal year shall begin July first and end June thirtieth. ~~A school day~~ The
5 length of days shall be ~~at least five and one-half hours, exclusive of intermissions, and at least~~
6 ~~two and three-fourths hours shall count as a half day~~ set by each local school board. A school
7 term for grades four through twelve shall consist of a minimum of nine hundred sixty-two and
8 one-half hours, exclusive of intermission. The time specified as a "school day" shall not apply
9 below grade four. An "intermission" is the time when pupils are at recess or lunch.

10 Section 2. That § 13-26-2 be amended to read as follows:

11 13-26-2. The school board or governing body shall operate grades one through twelve in its
12 schools for at least ~~a nine-month regular term~~ nine hundred sixty-two and one-half hours,
13 exclusive of intermissions, in any one school year. The regular school term may be conducted
14 on a year-round basis, ~~but for grades one through twelve shall consist of school actually in~~
15 ~~session for at least one hundred seventy-five days~~ and shall begin on a date established by the
16 school board. The State Board of Education shall promulgate rules pursuant to chapter 1-26

1 governing the operation and scheduling of year-round schools. ~~The rules may allow deviations~~
2 ~~from the one hundred seventy-five day requirement in this section and from the five and one-half~~
3 ~~hour per day requirement in § 13-26-1 if the total school term hours requirement in § 13-26-2.1~~
4 ~~is met.~~ The local school board or governing body may establish the school term for kindergarten
5 programs. Any school board or governing body may release graduating high school seniors from
6 school before the end of the regular term if the release is for no more than three days. Make up
7 days for school closing because of weather, disease or emergency need not exceed ten days.
8 Graduating seniors are excused from make up days if the make up days occur after the students
9 have graduated or after graduation exercises have been held. If classes have been convened and
10 then are dismissed because of inclement weather, that day constitutes a day in session equal to
11 the number of hours planned for that day as established in the local school district calendar for
12 the year.

13 School boards are encouraged to provide days within the regular school term for curriculum
14 and staff development which shall be in addition to the ~~one hundred seventy-five days~~ nine
15 hundred sixty-two and one-half hours required in this section. Each school board shall determine
16 the appropriate number of days for this activity and how best to use the time based on local
17 needs for program development, increased parent participation, student contact, teachers'
18 preparation, or other needs of the schools in the district. School shall be in session only when
19 classes are held and as provided in §§ 13-26-4 and 13-26-4.1. A school board may operate a
20 special term during the summer months.

21 Section 3. That § 13-26-2.1 be amended to read as follows:

22 13-26-2.1. Notwithstanding §§ 13-26-1 and 13-26-2, each local school board may establish
23 the length of a school day and the number of school days in a school week, ~~provided.~~ However,
24 the number of school hours in a school term for grades four through twelve may not be less than
25 nine hundred sixty-two and one-half hours, exclusive of intermission. ~~A plan to establish a school~~

- 1 ~~term pursuant to this section must first be approved by the South Dakota Board of Education.~~
- 2 The state board may adopt rules, pursuant to chapter 1-26, regulating the ~~approval~~ review and
- 3 revision of local district plans.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Education. S.J. 233

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/4/99 Education Do Pass, Passed, AYES 7, NAYS 0. S.J. 332

6 2/4/99 Education Place on Consent Calendar.

7 2/5/99 Senate Deferred to another day. S.J. 358

8 2/8/99 Senate Do Pass, Passed, AYES 33, NAYS 1. S.J. 378

9 2/9/99 First read in House and referred to Education. H.J. 449

10 2/18/99 Scheduled for Committee hearing on this date.

11 2/23/99 Scheduled for Committee hearing on this date.

12 2/23/99 Education Do Pass Amended, Passed, AYES 7, NAYS 5. H.J. 698

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

750C0861

SENATE ENGROSSED NO. **SB243** - 2/18/99

Introduced by: Senators Benson, Drake, Duxbury, Hainje, and Lawler and Representatives
Duenwald, Derby, and Juhnke

1 FOR AN ACT ENTITLED, An Act to provide for the issuance of specialty license plates and
2 organization decals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 An owner of a motor vehicle, who is a resident of this state, who has a valid South Dakota
7 driver's license or South Dakota identification number as assigned by the Department of
8 Commerce and Regulation, may upon request receive a set of specialty license plates that allow
9 for the placement of an organization decal on the plates. The specialty plates are in lieu of regular
10 license plates issued by the county treasurer and may only be used on noncommercial vehicles
11 that are licensed according to §§ 32-5-6 and 32-5-6.3. If the specialty plates are requested at the
12 time of initial application for title and registration of the vehicle, no additional fees are charged
13 for the plates above the costs involved in registering the vehicle. If the specialty plates are
14 requested later or if the vehicle has current South Dakota plates, the owner shall surrender the
15 current plates and pay a ten dollar fee for the specialty plates. This fee is in addition to any
16 applicable costs involved in the registration of the vehicle.

1 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 To qualify for an organizational decal, an organization shall be a nonprofit corporation, or
4 a group of nonprofit corporations with a common purpose, on file with the secretary of state's
5 office and shall have a minimum of two hundred members and shall meet the following
6 requirements:

- 7 (1) The primary activity or interest of the organization or group of organizations serves
8 the community, contributes to the welfare of others, and is not offensive or
9 discriminatory in its purpose, nature, activity, or name;
- 10 (2) The name and purpose of the organization or group of organizations does not
11 promote any specific product or brand name that is provided for sale; and
- 12 (3) The purpose of the organization or group of organizations does not promote a
13 specific religion, faith, or anti-religious belief.

14 Section 3. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 At the time of application, the organization or group of organizations shall furnish the
17 department with the following:

- 18 (1) A copy of its articles of incorporation for each organization;
- 19 (2) A copy of its charter or by-laws for each organization;
- 20 (3) Any Internal Revenue Service rulings of each organization's nonprofit tax exemptions
21 status;
- 22 (4) A completed decal design with the organizational logo and the organizational name,
23 or in the case of a group of organizations, a decal design which clearly depicts the
24 common purpose or theme of the group; and
- 25 (5) A completed application for organization decals on a form provided by the

1 department.

2 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Upon approval of an application for organization decals and approval of the design of the
5 organization decal, the department shall furnish the decals to the organization. The organization
6 shall purchase at minimum one hundred sets of the organization decals. The organization shall
7 reimburse the department for the cost of the decals, plus a fifteen percent administrative fee. The
8 organization shall establish criteria for an applicant to qualify for the organization decals and the
9 fee to be charged for the decals. The organization is responsible for the administration and
10 issuance of the decals. Decals other than those authorized and issued by the department are not
11 permitted on license plates. Misuse of the decals or use of unauthorized decals is a Class 2
12 misdemeanor.

13 Section 5. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Upon the sale or transfer of a vehicle bearing specialty license plates that display an
16 organization decal, the plates shall remain with the owner and upon approval by the department
17 may be transferred to another vehicle. Anyone receiving organization license plates shall at the
18 time of obtaining the specialty plates purchase from the county treasurer a temporary permit. The
19 permit is valid for fifteen days and costs fifteen dollars. The permit shall be vehicle specific and
20 shall be affixed to the vehicle by the seller at the time of sale or transfer of the vehicle. The new
21 owner of the vehicle may use the permit in the interim of registering the vehicle. The permit may
22 not be used for any other purpose than stated. Misuse of the temporary permit is a Class 2
23 misdemeanor.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to Transportation. S.J. 279

3 2/9/99 Scheduled for Committee hearing on this date.

4 2/11/99 Scheduled for Committee hearing on this date.

5 2/11/99 Transportation Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 445

6 2/16/99 Senate Deferred to another day. S.J. 506

7 2/17/99 Motion to Amend, Passed. S.J. 528

8 2/17/99 Senate Do Pass Amended, Passed, AYES 33, NAYS 0. S.J. 528